

brought to our Nation. The reforms we enact must crack down on illegal immigrants, but they must also protect U.S. workers and the right of American citizens to reunite with their families.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The hour of 11 a.m. having passed, morning business is closed.

#### CUBAN LIBERTY AND DEMOCRATIC SOLIDARITY [LIBERTAD] ACT OF 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 927, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 927) to seek international sanctions against the Castro Government in Cuba, to plan for support of a transition Government leading to a democratically elected Government in Cuba, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Dole amendment No. 2898, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I am about 6 minutes late in reaching the Senate floor because of my responsibility of presiding this morning over the Foreign Relations Committee, at which our former Senator Sasser from Tennessee appeared as President Clinton's nominee to serve as U.S. Ambassador to Communist China.

It was good to see so many people from Tennessee, including Senator Sasser's attractive family. I listened with great interest to his testimony.

Mr. President, we now resume consideration of the Libertad bill involving the question of whether the United States will continue to tolerate a Communist tyrant 90 miles off our shore, the tyrant being, of course, Fidel Castro.

We have a lot of friendly activity around this place from time to time, bipartisan some of it, but much of it intensely partisan. But after all is said and done, most of the times those who participate in partisan exchanges leave the Senate Chamber with friendships intact. That is what I so often do with the distinguished Senator from Connecticut [Mr. DODD].

Senator DODD is an interesting gentleman. He is the son of a distinguished

U.S. Senator whom I knew. And I think it is fair to say—and I know that CHRIS DODD, the present Senator, would acknowledge the fact—that he and his father differed very sharply in their philosophical views, their views about foreign policy, and so forth. That is certainly the case with respect to the pending legislation, the so-called Helms-Burton bill.

This Libertad bill has already been passed by the House. Yesterday, the distinguished majority leader, Mr. DOLE, made the judgment that it was time for the Senate to act on the Senate version of the bill. They are almost identical. But Senator DOLE realized that the Senate would have to confront another filibuster by our Democrat friends.

Now, our friends across the aisle here have filibustered just about everything that has come up this year. A filibuster is not unusual because it is done by both sides. As a matter of fact, I must confess once or twice at least in my years in the Senate I have raised questions at some length about various pieces of legislation.

But as I listened to Senator CHRIS DODD yesterday while he spoke at some length about the pending Cuban Libertad bill, I frankly could not tell which bill he was talking about. He certainly was not talking about the bill pending at that time, which in fact is pending now, the Libertad Act. He was talking about some imaginary bill that was totally unrecognizable to me. I decided it was mostly tongue-in-cheek on his part. But it is hard to tell.

Anyway, Mr. President, I thought about it last night as I was driving home, and again this morning. I wish that Senator DODD were here now. He may presently be, because he, like me, is a member of the Foreign Relations Committee, and he attended the Sasser hearing this morning.

But, as I listened to Senator DODD's oratory talking about a nonexistent bill, I made the judgment that I would like to join him in opposing the bill that he was condemning—a fictional bill that does not exist, a bill that has nothing to do with the pending legislation which the clerk has just reported.

That said, let us talk about what is before the Senate, the pending Cuban Libertad bill. It goes by various names. The Senate version is known as the Dole-Helms Libertad Act.

When I first introduced my version early this year—with Congressman BURTON offering very similar legislation in the House, it became the Helms-Burton bill.

I don't care whose name is attached to it or who gets the credit for it; I believe that the U.S. Government and the American people had better make clear that we are not going to kowtow to Fidel Castro, a Communist who has murdered literally thousands of his own people, a tyrant who has imprisoned his political enemies for as long as 30 years.

And yet there are some voices in this country, and in this Senate, who say,

well, we need to get along with Fidel Castro and we need to trade with Castro. Well, that reminds me of the distinguished Prime Minister of England, Neville Chamberlain, who went over to Munich to meet with Adolph Hitler. Chamberlain returned to London exuberant. Boasting, in effect: "We can do business with this fellow Hitler. We can have peace in our time." And the press in England, the London Times and all the rest, put Lord Chamberlain all over their front pages, praising Chamberlain to the skies.

But there was one patriot who dared to stand up to be counted, who said: "Wait a minute. I will not be a party to this." That voice was Winston Churchill, and as Paul Harvey says, now you know the rest of the story.

Neither the British nor anybody else had peace in their time. Adolph Hitler was a bloody tyrant. World War II put an end to Hitler and Winston Churchill led the free world to victory over tyranny. Winston Churchill has gone down in history as a hero. Neville Chamberlain is all but forgotten.

But what is before this body, Mr. President—let us call it the Dole-Helms Libertad Act—is simply a proposal to perfect and improve a bill that passed the House of Representatives by a margin of 294 to 130 earlier this year.

So what is now before the Senate is a bill that has been improved to reflect the legitimate concerns of the Clinton administration and others who support the pending Libertad Act.

Now, let me try to focus in on some of the details of the pending bill. Title I of the Dole-Helms Libertad Act is designed to be the next logical step in building on the Cuban Democracy Act.

The Cuban Democracy Act was passed by Congress and signed into law in 1992. It was intended to strengthen the U.S. embargo against Castro. It was intended to seek, aggressively, international sanctions against Fidel Castro's repressive regime, and it was intended to support directly the Cuban people who were being brutalized by Fidel Castro and his henchmen.

Mr. President, some of the provisions of the Dole-Helms substitute:

First, to authorize the President, whoever he may be, to furnish assistance to support democracy-building efforts and to assist victims of political repression and to facilitate visits of international human rights monitors;

Second, to prohibit loans, credits or other financing for transactions involving U.S. property that has been confiscated by the Castro thugs;

Third, condition any U.S. aid that may be contemplated to any republics that belonged to the former Soviet Union. Such conditions will be based on whether these former republics are now subsidizing the Castro economy or are benefiting from Cuban intelligence facilities directed against the United States. The Dole-Helms bill authorizes the President to implement a fully reciprocal exchange of news bureaus between the United States and Cuba.

Some of these sections already speak to actions the President has already taken. Nothing in the pending bill—nothing—prevents the exercise of lawful Presidential authority. What it does is place the Congress of the United States—the House of Representatives and this Senate—on record as being concerned with the direction of certain executive branch activities.

Now let us get to what is identified as the spending Dole-Helms bill. Title III of the substitute is the most misunderstood part of the bill, and it is the most important section.

What title III does, Mr. President, is protect the interests of U.S. nationals whose property was wrongfully confiscated by Fidel Castro and his henchmen. It does this by making persons or entities that knowingly and intentionally exploit stolen properties—United States properties, that is—in Cuba liable for damages in United States district court.

The intent, of course, is to deter third country nationals from seeking to profit from wrongfully confiscated properties—and to deny Fidel Castro what he needs most to survive: hard cash.

Title III specifically establishes the private civil right of action—that is, a right to sue in U.S. courts—for any U.S. national having ownership of a claim to commercial property confiscated by Castro against a person or entity who is knowingly benefiting from the use of such confiscated property. In other words, making profit off stolen goods. That is the simple term.

The intent of this provision is to create a deterrence so that foreign investors do not unjustly benefit from American property confiscated by Fidel Castro and his henchmen.

But there are a number of conditions that an American claimant must satisfy before he can even get into court. The Libertad Act now pending provides a 6-month period between this provision's enactment and the ability of a claimant to use the remedy. It requires an affirmative duty to notify a potential defendant about the claim to the confiscated property, and it provides treble damages only after an additional notice has been given.

It requires that the claim meet a minimum amount in controversy, a minimum amount of \$50,000 exclusive of court costs. It requires service of process in accordance with existing laws and rules, including that any actions brought against a State entity must be in accordance with the Foreign Sovereign Immunities Act. That was the reason I was puzzled by some of the things Senator DODD was saying yesterday, and I am sorry he is not here to discuss them with me.

Finally, it provides that certified claimants who use this right of action are not denied U.S. Government espousal if they do not receive full compensation, but it reduces any responsibility to espouse by the amount of any recovery, and it discharges the

United States from responsibility with respect to the certified claim if the claimant receives equal or greater compensation through this right of action.

Now then, I think it is essential to make it clear what title III does not do. It does not require, nor does not authorize, the United States Government to espouse the claims of a naturalized person in any settlement with a future Cuban Government. All sorts of legalistic meanderings have insinuated that this bill does that. Strike it, it does not do that.

Title III is the most important part, in my judgment, of the Libertad Act because, in addition to protecting our own citizens' property rights, it will deny the Castro Government access to the taking of foreign hard cash that Castro has been using to prop up his tottering regime, and to continue his enslavement of the Cuban people.

Oh, yes, I can understand that these thieves in the night, who operate in the dark shadows of international commerce, are upset that our action might end the free ride that they have been enjoying while pocketing a great deal of blood money. But it is time for simple justice; it is a moral duty and responsibility that we do this.

We become a part of what we condone, Mr. President. If we further condone Fidel Castro, we are a part of Fidel Castro's tyranny. And I do not intend to be a part of that. It is time that we serve notice on our principal trading partners that they should be ashamed of themselves—ashamed of themselves—for having anything to do with such activity by any of their own nationals, or to stand idly by without speaking out when it is done by others.

They have a moral duty. We have a moral duty, and that is what this bill is all about.

What it does not do, contrary to what the distinguished Senator from Connecticut was implying yesterday, is, it does not adversely affect, in any way, the rights of any certified American claimants. Not one.

What it does not do is create an open door for voluminous Federal litigation. It will not happen. Henny Penny can quiet down, the skies are not going to fall. What it also does not do is create new burdens for this or any future Cuban Government. The target is international traffickers, and the remedy has been designed to achieve that goal.

Once again, despite insinuations, suggestions, allegations, whatever, that no certified claimants support this bill, the fact is that countless hundreds of them do indeed support the Libertad Act—for example, Procter & Gamble, Colgate-Palmolive, Chrysler, Consolidated Development Corp., and many others.

Frankly, Mr. President, what the Libertad Act also does not do is burden the executive branch of our own Government, in a time of transition, from fashioning effective agreements with a

Cuban transition government. It should enhance the ability of the President of the United States to fashion effective remedies, discouraging trafficking in property owned by U.S. citizens.

Now, lest it escape the understanding of anybody, let us be clear about how Castro and his cronies acquired these "confiscated" properties. He stole them. He stole them from their rightful owners, and now that he is desperate for hard currency to sustain his regime, Castro is offering foreign investors a subjugated labor force. He is offering foreign investors a low-cost use of this property, the same stolen properties that belong to American citizens.

If there ever was unjust enrichment at the expense of U.S. citizens, this is it, and it has to stop. We must, in my judgment, as a responsible U.S. Senate, vote to throttle Fidel Castro. That is why the Libertad Act is more important than ever before.

Since the introduction of the Libertad Act, the news media have reported on numerous occasions that foreign investments in Cuba are slowing down because of concerns that the bill will be enacted. The Miami Herald reported in June of this year, "One Canadian firm called off plans to expand its involvement in Cuba, and other investors have slowed down their plans to avoid committing any cash before the fate of Helms-Burton is decided."

In July of this year, 3 months ago, the National Law Journal reported: "The chilling specter of lawyers enforcing the embargo has led more than one foreign investor to conclude that investing in Cuba may not be worth the risk of having their U.S. assets attacked by companies that once did business on the island."

Many foreign investors are leaving Cuba because Castro continues to confiscate property. A German investor wrote an op-ed piece in USA Today in September, saying "My trust in the Cuban marketplace has been severely shattered, and I want to issue a warning to eager potential investors from the United States: In Cuba, you have to learn to live with out-of-control communism. I have learned my lesson."

Mr. President, this German investor was taken by Castro's security agents to their headquarters and was later put on a plane back to Germany. Cuban officials confiscated much of his belongings.

Now, that is the way the Castro regime operates; that is the way it has always operated. It used to be that Americans stood united about this Communist threat 90 miles off our shore. But now we are changing, ala Neville Chamberlain, who went over to Munich and consulted with Adolf Hitler and came back and said, "We can have peace in our time. We can do business with Adolf Hitler." But nobody could do business with Adolf Hitler, and we should not be doing business with Fidel Castro. They are two peas in the same pod.

The Libertad Act is certainly worth the support of every Senator. Every Senator will not support it; but I ask support for this bill, as does Senator DOLE, because it is the right thing to do for America. I ask support for the bill because it is the right thing to do for the Cuban people. Ask the Cubans how they feel about it. The ones still in Cuba, the ones who are in exile in this country and elsewhere.

I have received countless letters of support, Mr. President, from Cubans still in Cuba, pleading for this Senate to enact the Libertad bill into law. Their hope for freedom is at stake. These people are supporting this bill, fully aware that for having done so, they are risking persecution by Fidel Castro.

As far as I am concerned, they are the heroes of the Libertad Act. I think Senators ought to bear that in mind when the time comes, if it comes, to vote.

I yield the floor.

Mr. JEFFORDS. Mr. President, I rise with all due respect to my good friend, the Senator from North Carolina, whom I have worked with over many, many years. And certainly in the days of his chairmanship of the Agriculture Committee, we had many good times working together.

However, I oppose this bill for many reasons. I was in the service of the United States Navy at the time that Fidel Castro assumed control of Cuba and have done everything since that time to try to bring about a change in that Government.

I have a strong difference of opinion on the approach which is important for this Nation to take at this time to bring about the change of government there.

For over 30 years, we have maintained an embargo against Cuba with a stated purpose of bringing about the demise of the totalitarian regime. However, our embargo has not brought about the political and democratic change legitimately desired by the Cuban people.

I support the Cuban people in their desire to do that. It is just a question of how you do it. It is not a question of the goal here. It is a question of how we reach that goal. It harms a majority of the Cuban people without affecting the ruling elite, and the Cuban Government is a major impediment to the United States exerting positive pressure for change in Cuba.

Further, Cuba today poses no strategic or political threat to our Nation. We ask ourselves, then, will the provisions of this bill hasten the change we all desire? I think the answer is clearly no.

I believe the provisions of this bill are, in fact, harmful to U.S. interests. Many of our closest allies—Canada, Great Britain, and Mexico—vehemently oppose the extraterritorial provisions in this bill as infringing on their sovereignty. They oppose this bill even though they share our unstinting

commitment to bring democratic change to Cuba.

The bill would have little impact on non-United States investment in trade in Cuba, which is growing despite our embargo.

Mr. President, the provisions of this bill regarding property confiscations set a dangerous precedent, moving far beyond any existing law we have had in the history of this Nation. Under this bill, claimants could sue individual companies or government entities—foreign as well as domestic—regardless of whether the claimants were United States nationals at the time of the alleged confiscation. This bill attempts to confer retroactive rights of suit upon individuals and companies that were not U.S. nationals at the time their Cuban properties were taken.

The ramifications of this in all other situations similar around this world are staggering. This bill would confer a right to sue upon a specific national-origin group, which has never been done before. The United States has never conferred such rights on any such group.

The group that we refer to if this is opened up would be those that lost their property in China and Vietnam, Korea or anywhere else, who now came to this country—that is, those who fled the nations and came here, Vietnamese, too—and now have become United States citizens could go back as United States citizens to make claims. This has never happened before.

This bill would dilute the certified claims. We will talk here about a pot of money, if there ever is one. And what it would do is dilute by so much those legitimate claims under existing law, it would be totally unfair to the legitimate rights of the U.S. citizens at the time.

It would swamp the U.S. courts with thousands upon thousands of lawsuits, causing an explosion of litigation, costing programs billions of dollars. This possibility alone virtually ensures that the measure would be completely unwieldy. Citizens could have a hard time bringing any other matters before the courts.

This measure could also wreak havoc with some of our most important allies and trading partners by exposing their nationals to a flurry of lawsuits in U.S. courts.

The bottom line, Mr. President, is that this bill does nothing for our efforts to promote a democratic Cuba. It does nothing for U.S. economic interests. Most importantly, it does nothing but create a potential benefit for a small group of people at potentially great cost to the American taxpayers.

Therefore, I must say I vehemently oppose this bill as being contrary to the interests of the United States and the citizens of the United States. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, there are a number of committees meeting now, and I think it might be in the best interest if we recess for a few moments.

#### ORDER FOR RECESS

Mr. DOLE. Mr. President, I ask unanimous consent that following the remarks of the distinguished Senator from Connecticut, Senator DODD, that the Senate stand in recess until 1:45 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, our Nation has passed into a new period in our history, out of the cold war and into a time that will be entirely different than what we experienced during the cold war. Children studying history will look in textbooks and see clearly the demarcation between that period of the cold war and what we are now beginning to experience. They will see the breaking point, when the Berlin Wall fell, when the Soviet Union collapsed, when economic strength rather than military might began to define a country's real position in the world.

It seems that just about everyone knows that history is dragging our country forward, that we need to adjust to new circumstances. And everyone seems to know this but those who are, in fact, making decisions in this area that this bill deals with.

The Cuban Liberty and Democratic Solidarity Act, or the Helms-Burton bill, sends us not forward into this new era, but rather back about 30 years. Our Nation's foreign policy is rife with anachronisms, and I cannot personally be supportive of helping to reinforce and to entrench our foreign policy in these outmoded and outdated policies.

The issue we are discussing today is not whether the United States supports a peaceful transition to democracy in Cuba. Everybody here wants to see that occur. That goal is not in question. The means of getting there is what is in question. I feel that the provisions of the Helms-Burton bill will stall rather than help our efforts to get to a democratic regime in Cuba.

About a week ago, the President of the United States announced a plan that received much bipartisan praise. The President promised to more vigorously enforce unlicensed travel to Cuba, but to broaden support for cultural and intellectual in a way that the